



Appeal Decision

Site visit made on 2 February 2021

by David Cliff BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2021

Appeal Ref: APP/R3650/W/20/3256687

Duck House, Gate Street, Bramley, Guildford, GU5 0LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs R Yeoman against the decision of Waverley Borough Council.
 - The application Ref WA/2020/0751, dated 5 May 2020, was approved on 1 July 2020 and planning permission was granted subject to conditions.
 - The development permitted is described in the planning application form as 'application under Section 73a to remove condition 5 of WA/2020/0291 (permitted development rights removed) to allow permitted development rights at Duck House, Gate Street, Bramley, GU5 0LR'.
 - The conditions in dispute is No 5 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other Order revoking or re-enacting that Order with or without modification), no development otherwise permitted under Schedule 2, part 1, Classes A and D of said Order shall be erected other than as expressly granted by this permission, unless express planning permission has first been granted for such development.
 - The reasons given for the condition is: Having regard to the policies of restraint which apply to the area and to accord with Policy RD2 of the Waverley Borough Local Plan 2002 and Policy RE2 of the Local Plan Part 1 (2018).
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Decision

1. The appeal is allowed and the planning permission Ref WA/2020/0751 (an application under Section 73A to remove Condition 5 of WA/2020/0291 (permitted development rights removed) to allow permitted development rights) for extensions and alterations at Duck House, Gate Street, Bramley, Guildford, GU5 0LR, granted on 1 July 2020, is varied by deleting condition No.5.

Background

2. Planning permission WA/2020/0291 was granted for extensions and alterations at Duck House (a previously approved replacement dwelling) subject to conditions, including a condition (5) of that permission removing domestic permitted development rights. A subsequent planning application (WA/2020/0751) sought to remove this condition. In granting a further permission, the Council revised condition 5 so that only Class A and D permitted rights are precluded. This appeal seeks the removal of this condition from planning permission WA/2020/0751. In my formal decision above I have made reference to 'extensions and alterations' as this is the development to which the planning permission the subject of this appeal relates.

Main Issue

3. The main issue is whether the condition to restrict permitted development rights (Classes A and D) is necessary, relevant to the development and reasonable, having particular regard to the location of the site within the Green Belt.

Reasons

4. The current version of the Government's Planning Practice Guidance states that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. Paragraph 53 of the National Planning Policy Framework makes clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
5. Part 1 of Schedule 2 of the General Permitted Development Order does specifically include limitations on use of permitted development in certain locations, such as areas of outstanding natural beauty (AONB) and conservation areas. However, it specifically does not include any limitations or preclusions for land in the Green Belt. The inference from this is that the Government does not seek to generally impose such additional limitations on domestic extensions within the Green Belt. In this case, the Council's officer report states that the site is located within the Surrey Hills AONB, so the additional relevant limitations for sites in the AONB would still be applicable.
6. The permitted extensions are to the side elevations of the dwelling. Whilst the Council expresses concern regarding the effect of future proposed extensions on the Green Belt, the retention of the condition in question, would mean that the dwelling has restrictions placed upon it that many other dwellings in the Green Belt would not be burdened by. Even though this dwelling is a replacement and already has permitted extensions to it, there are likely to be many other dwellings in the Green Belt that have undertaken extensions but for which the normal permitted development allowances will still apply.
7. Restrictions serving to limit any impact upon Green Belt openness from extensions would still apply as the permitted development regulations still apply restrictions on the size of future extensions that can be built. As noted above, these are more restrictive within an AONB. Any future proposals for extensions that go beyond the permitted development allowances would be subject to the usual scrutiny through a planning application.
8. Although the Council draw attention hypothetically to the size of extension that might be possible under permitted development allowances and the resulting cumulative increase that could result over the original floor area, it is far from certain that such an extension would be undertaken at the property. Whilst I acknowledge that further extensions might be constructed which could take the building over the cumulative increase that the Council might wish to allow, I reiterate that the Government in drafting the permitted development regulations chose not to impose any restrictions on land in the Green Belt.
9. Whilst the site is located in a remote location within the Green Belt and is partially visible from the adjacent footpath, I noted at my site visit that there are several other buildings located close by including an adjacent dwelling and various buildings at Gate Street Barn. By its nature, many locations in the

Green belt are located in pre-dominantly open locations. Notwithstanding the Council's concerns, the restrictions contained with the permitted development regulations put a limit on the size of extension that may be permitted.

10. Future extensions would be restricted by the permitted development limitations for dwellings within the AONB. I consider it unlikely that any future proposals put forward through permitted development would be significantly in conflict with the Green Belt protection and restraint aims of Policies RE2 of the Waverley Borough Local Plan (Part 1) Strategic Policies and Sites (February 2018) and retained Policy RD2 of the Waverley Borough Local Plan (2002).
11. I therefore do not consider there to be a clear justification for the imposition of the condition to restrict permitted development rights in this case. Whilst the condition would be clearly relevant to the development, it would be neither necessary nor reasonable for the reasons set out above.

Other matters

12. The appellant draws attention to planning permission granted by the Council in 2018 for the removal of a similar permitted development restriction condition. I note the Council's submissions in this regard, but these do not change my reasoning outlined above on the merits of the current appeal. The reference to an appeal decision at Westbourne House, Dorking¹ has limited relevance to this appeal as it does not appear to be located in the Green Belt and therefore has little bearing on my decision.
13. The removal of the condition, although it may result in further extension to the house within the permitted development limitations, is unlikely to result in any significant traffic implications.
14. I note the location of the site adjacent to platforms used for roosting White Stork birds as part of the White Stork reintroduction project. Any further extension under permitted development would be likely to result in considerably less impact, including from noise and disturbance, than the construction of the dwelling itself and there is very limited evidence to suggest that the possibility of further limited extension of the dwelling would result in any significant harm to the roosting White Storks. This does therefore weight significantly against the appeal.
15. I have also considered the other matters raised in representations to the original planning application for the removal of the condition. Noting the reasons for the imposition of the condition, there are no other matters that weight significantly against the appeal.
16. The Council's statement says that, should this appeal be allowed, the Council seeks that the remaining conditions as detailed on the decision notice are imposed. Nevertheless, this appeal has been made directly against a condition imposed on a planning permission. The original planning permission and this decision are required to be read together as a new separate planning permission is not created for this type of appeal.

¹ APP/C3620/W/17/3181196

Conclusion

17. I conclude, therefore, that the appeal should be allowed and condition 5
deleted

David Cliff

INSPECTOR